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C O N F I D E N T I A L SECTION 01 OF 03 HARARE 001563

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SUBJECT: NGO BILL: GOZ MOVING FORWARD

Classified By: Ambassador Christopher W. Dell under Section 1.5 b/d.

11. (SBU) SUMMARY: UN Resrep Victor Angelo briefed DCM and USAID Rep on the state-of-play with respect to the NGO bill. Angelo noted that his efforts to broker a compromise with the GOZ had yet to bear fruit and had been damaged by the vocal opposition of local NGOs at a September 7 public parliamentary hearing on the bill. He said the government saw the issue in terms of national security and it asserted that, most countries had legislation regulating NGO activities. The core problems with Zimbabwe's bill were two articles that banned foreign NGOs and foreign financing of local NGOs, both of which violated Zimbabwe's international obligations. Angelo's approach remains to convince the GOZ to amend the bill to address these specific concerns and to include transitional arrangements that would protect the registration status of existing NGOs. END SUMMARY.

UN Continuing Efforts to Broker a Compromise

12. (C) UN Resident representative Victor Angelo on September 9 told the DCM and USAID Director that his office had underscored international objections on the bill to "the highest level" of the GOZ. He cautioned that the international community needed to couch its opposition carefully as laws regulating NGOs were common throughout both the developing and developed world, and there was little disputing a country's right to regulate NGOs. That said, the Zimbabwean bill contained several elements that were inconsistent with other countries' laws and with Zimbabwe's international obligations. Specifically, articles 9(4) and 17 of the bill banning some foreign NGOs from operating in Zimbabwe and barring foreign funding of some local violated Article 71 of the UN Charter, a 1998 UNGA resolution on protection of "human rights defenders", and African Union obligations, among other international laws. Moreover, the bill's vague transitional provisions would leave in limbo numerous currently legal entities. Finally, the bill was too broad and would confer too much power to the NGO Council to impinge unduly on NGO operations.

13. (C) Angelo said the UN had focused on changing or removing these four aspects of the bill in its discussions with the GOZ. However, they had made little headway in convincing the GOZ to amend the bill. He said senior ZANU-PF contacts had told him privately that the NGOs had made some valid points about the bill and that there had been some sympathy for amendments. However, that sympathy had dissipated following a parliamentary hearing on the bill September 7 during which several NGOs had made ferocious assaults on the bill, its drafters, and the government. This had confirmed to the ruling party that many of the NGOs were simply "western agents" trying to engineer "regime change" and had further convinced them that the bill was needed. Angelo noted that a number of international NGOs had deliberately soft-pedaled their opposition to the bill in an attempt to avoid antagonizing the government. He lamented the fact that the local NGOs had not been equally diplomatic.

14. (C) Angelo said the best prospect for changes to the bill was the GOZ's interest in complying with UN and other international obligations (or at least appearing to do so). The regime might therefore try to address some of the UN's objections. However, the regime saw this issue through the prism of national security and was unlikely to agree to any changes that would compromise their ability to crack down on political opposition.

15. (C) Angelo said his office was trying other ways to facilitate progress on the bill. For instance, he was encouraging NGOs to offer to regulate themselves in an effort to show they were open to the need to better govern the sector. He said a similar offer from donors to create a code of conduct to govern their activities would be well received by the government. In that regard, he noted that SADC member embassies had rebuffed his efforts to arrange a meeting with donors to discuss the NGO bill. Many shared the GOZ's belief that some of the NGOs were opposition elements bent on regime change and, hence, legitimate targets for the

government. (N.B. The Canadian Embassy reportedly has voiced concern over the bill to the GOZ and that the EU has received instructions to deliver a demarche on the matter. We plan to raise U.S. objections during the Ambassador's introductory meetings.)

Parliamentary Hearing, Public Opposition

16. (U) The September 7 Parliamentary hearing, hosted the Portfolio Committee for Public Service, Labor and Social Welfare, was open to the public. Participants at the hearing ranged from social service and human rights organization to development trusts, trade unions, churches and community-based groups. Most of the NGOs present voiced objections to stringent annual registration requirements with no allowances for organizations already registered and to excessive government influence over the proposed NGO Council.

17. (C) A number of NGOs also raised concern over the prohibition on foreign funding, which could severely curtail many NGOs operations. They noted that the Zimbabwe economy benefited significantly from foreign funding of NGOs and prohibiting such funding would retard Zimbabwe's economic recovery. Several participants said the NGO Bill violated the Zimbabwe Constitution as well as Zimbabwe's international obligations. International NGOs, such as CARE and Catholic Relief Service, attended the hearing but did not make presentations. Stephen Gwynne-Vaughn of CARE said his organization had concerns about how the bill would effect their operations but had deliberately kept a low profile at the hearing.

Latest Developments

18. (SBU) On September 15, USAID attended a UN organized meeting with donors and democracy and human rights NGOs, local and international, to further discuss the bill and its potential impact. There was a strong current of defiance, especially on the part of the local NGOs, and it was clear that all of the NGOs were making alternative plans, such as relocating offshore or restructuring and realigning themselves with organized labor, churches, or private companies that would not be subject to the bill's provisions. International NGOs concluded that while they might not be the current targets of the legislation, they would be vulnerable. UNDP representatives reported that they were hoping to have another meeting with the GOZ soon to further discuss amending the draft legislation, as well as the possibility of NGO self-regulation and a donor "code of conduct."

Comment:

19. (C) Sources close to Parliament have told us that the Legal Committee (PLC), which evaluates the constitutionality of proposed legislation, would probably begin consideration of the NGO Bill soon after Parliament reconvenes October 5. Our expectation is that despite UN efforts and public opposition the bill is likely to pass in something akin to its current form. The government may care about its international reputation but not as much as it does about controlling the opposition in the run-up to the March elections. Implementation may prove another matter, but once the bill passes, we expect some high-profile NGOs closely linked with the political opposition be targeted quickly and relentlessly.

110. (C) On the bright side, the high turnout and open discussion at the public hearing, and committee chairman Lazarus Dokora's receptivity to participants' contributions, argue for parliament's growing maturity as an institution. This would be an important development in the longer-term effort to promote genuine democracy in Zimbabwe. END COMMENT.

Dell